

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-122

13 **ELMER CASILLAR ESPINO**

14 93 Coral Lane
Suisun City, CA 94585
Registered Nursing License No. 600037

ACCUSATION

15 Respondent.

16
17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about June 4, 2002, the Board of Registered Nursing issued Registered Nursing
22 License Number 600037 to Elmer Casillar Espino ("Respondent"). The Registered Nursing
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on June 30, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

• • •

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license."

3 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
4 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license.

6 8. California Code of Regulations, title 16, section 1444, states:

7 "A conviction or act shall be considered to be substantially related to the qualifications,
8 functions or duties of a registered nurse if to a substantial degree it evidences the present or
9 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
10 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

11 ...

12 "(c) Theft, dishonesty, fraud, or deceit."

13 ...

14 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
15 revoke a license on the ground that the licensee has been convicted of a crime substantially
16 related to the qualifications, functions, or duties of the business or profession for which the
17 license was issued.

18 10. Section 2811(b) of the Code provides that the Board may renew an expired license at
19 any time within eight years after expiration.

20 11. Section 118, subdivision (b), of the Code provides that the expiration of a license
21 shall not deprive the Board to proceed with a disciplinary action during the period within which
22 the license may be renewed, restored, reissued or reinstated.

23 12. Section 125.3 of the Code provides, in pertinent part, that the Board/
24 Registrar/Director may request the administrative law judge to direct a licentiate found to have
25 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
26 costs of the investigation and enforcement of the case.

DRUGS

13. "Amlodipine" is prescribed for hypertension and/or chest pain and is a dangerous drug pursuant to Code section 4022.

14. "Duoneb" is prescribed for treatment of asthma, chronic bronchitis and/or emphysema and is a dangerous drug pursuant to Code section 4022.

15. "Glipizide" is prescribed for treatment of Type II diabetes and is a dangerous drug pursuant to Code section 4022.

16. "Metformin" is prescribed for treatment of Type II diabetes and is a dangerous drug pursuant to Code section 4022.

17. "Potassium Citrate" is prescribed to treat kidney stones and is a dangerous drug pursuant to Code section 4022.

18. "Prevacid" is prescribed to treat gastrointestinal ulcers and/or gastroesophageal reflux and is a dangerous drug pursuant to Code section 4022.

19. "Sodium Bicarbonate" is prescribed to treat excess stomach acid, heartburn and/or indigestion and is a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Falsified Certificate)

20. Respondent is subject to disciplinary action under section Code sections 2761(a) and 2761(e) in that he submitted falsified documents to his employer regarding his BLS (Basic Life Support) recertification on March 21, 2007. The circumstances are as follows:

a. Respondent was hired on September 22, 2003, as a Licensed Registered Nurse at North Bay HealthCare in Vacaville, California. A condition for employment was that Respondent maintained current his BLS certification.

b. On March 20, 2007, Respondent was given a paid day off to renew his BLS certification. On March 21, 2007, Respondent presented to his employer a BLS card that he subsequently admitted to having altered to falsely reflect his having been BLS recertified on March 20, 2007. As a result, Respondent was terminated from his employment on April 18, 2007.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5

6
7
8
9
10
11
12

13
14
15
16
17
18
19
20
21

22
23
24
25
26
27
28

1 patient R.G. On November 25, 2008, Respondent admitted that he had called in prescriptions for
2 Potassium Citrate and Sodium Bicarbonate to Longs Drugs as these medications were needed to
3 treat his father's medical conditions.

4 d. On September 1, 2007, Longs Drugs received a telephone prescription for
5 patient J.E. The medication Duoneb was called in by "Ben" on behalf of Dr. Daniel Green.
6 Respondent attempted to pick up this medication from Longs Drugs and was advised by
7 pharmacist Laforteza that the prescription would have to be verified. On July 8, 2008, Dr. Green
8 was interviewed and denied having provided care to patient J.E. On November 25, 2008,
9 Respondent admitted to having used the alias of "Ben" in calling in a prescription for Duoneb for
10 his son, who was not under the care of Dr. Green.

11 e. On or after June 13, 2007, Longs Drugs pharmacist Laforteza reviewed the
12 prescription history for patient E.T. She confirmed that on or about April 19, 2007, the pharmacy
13 had received telephone prescriptions for Metformin 500 mg and Glipizide 5 mg. The
14 prescriptions were called in by "Spencer" on behalf of Dr. Daniel Green. Pharmacist Laforteza
15 also confirmed that the medication Amlodipine 10 mg had been telephoned to Longs Drugs on
16 May 21, 2007, by a person identified as "Michael" allegedly from Dr. Daniel Green's medical
17 office. Respondent on November 25, 2008, admitted that he had called in the above
18 prescriptions to Longs Drugs for treatment of his mother's medical conditions.

19 THIRD CAUSE FOR DISCIPLINE

20 (CRIMINAL CONVICTION)

21 22. Respondent is subject to disciplinary action under sections 2761(a), 2761(f) and/or
22 490 in that on November 18, 2008, in the criminal proceeding *United States of America v. Elmer*
23 *C. Espino*, United States District Court for the Eastern District of California, Case No. S-08-381
24 DAD, Respondent pled guilty to a violation of 18 U.S.C. section 641 (theft of government
25 property), a misdemeanor. Respondent was sentenced to one year of court probation and fined
26 \$500.00. The circumstances for this plea of guilty are that on May 17, 2008, at Travis Air Force
27 Base Exchange, Respondent was observed on video surveillance removing a silver flash drive
28

1 from its packaging and putting this \$149.00 item in his front right pants' pocket. Respondent
2 was then observed exiting the store without paying for the concealed merchandise.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nursing Number 600037, issued to Elmer
7 Casillar Espino.

8 2. Ordering Elmer Casillar Espino to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 8/28/09

13 Louise R. Bailey
14 LOUISE R. BAILEY, M.ED., RN
15 Interim Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 SF2009202196
21 40361774.doc
22
23
24
25
26
27
28